MYSORE ACT No. XXIV OF 1947.

THE RETROCESSION (TRANSITIONAL PROVISIONS) ACT, 1947.

(AMENDED BY ACT XXVIII OF 1947.)

(Promulgated by His Highness the Maharaja on the 4th day of August 1947.)

WHEREAS the jurisdiction heretofore exercised by the Crown Representative in the Bangalore Civil Station, the Railway lands and the Indian Institute of Science area, Bangalore, has been restored to His Highness the Maharaja, and it is necessary to provide for transitional arrangements in respect of proceedings in courts and other matters hereinafter appearing;

His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Retrocession (Transitional Provisions) Act, 1947.

(2) It extends to the whole of Mysore.

(3) It shall have effect as if it were in force from the date of retrocession.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Bangalore Civil Station" means the area, jurisdiction over which has been restored on the 26th day of July 1947 under Political Department Notification No. 184. P. dated 23rd July 1941[2] x x and published in the official Gazette dated 1st August 1947.

(*b*) "Civil and Military Station" means the area comprised within the boundaries of the Civil and Military Station, Bangalore, prior to the 19th day of July 1947.

(*c*) "Indian Institute of Science area" means the area, jurisdiction over which has been restored on the 19th day of July 1947 under Political Department

1. Certain words omitted by Act XXVIII of 1947.

Notification No. 174. P., dated 16th July 1947 [1] x x x and published in the official Gazette dated 21st July 1947.

(*d*) "Railway lands" means the lands in Mysore occupied by the Bangalore-Madras Branch of the Madras and Southern Mahratta Railway including the Hindustan Aircraft siding and the Hospital Town Extension, jurisdiction over which has been restored on the 2nd day of August 1947 under Political Department Notification No. 197, P. dated 30th July 1947 [1] x x x and published in the official Gazette dated 2nd August 1947.

[2][(*dd*) 'Bangalore Military area' means the area described in Schedule A annexed to the Political Department Notification No. 184 P., dated 23rd July 1947 and published in the official Gazette, dated 1st August 1947, jurisdiction over which has been restored on the 14th day of August 1947.]

(*e*) "Retroceded area" means the Bangalore Civil Station, the Railway lands [3][the Indian Institute of Science area and the Bangalore Military area.]

(*f*) "Date of retrocession" means,—

(i) the 19th day of July 1947 in respect of the Indian Institute of Science area ;

(ii) the 26th day of July 1947 in respect of the Bangalore Civil Station ; [1] x

(iii) the 2nd day of August 1947 in respect of the Railway lands; [4][and]

[4][(iv) the fourteenth day of August 1947 in respect of the Bangalore Military area.]

(*g*) "Law" includes act and any regulation, rule, bye-law, notification or order having the force of law.

Civil Suits.

3. Any suit or proceeding whatever, pending in a civil court in the Civil and Military Station immediately prior to the date of retrocession shall on that date be deemed to be a suit or proceeding filed or initiated and

1. Certain words omitted by Act XXVIII of 1947.
2. Inserted by Act XXVIII of 1947.
3. Substituted by Act XXVIII of 1947.
4. Added by Act XXVIII of 1947.

pending in a court in Mysore and such court of competent jurisdiction in Mysore as may be notified by the Government in the official Gazette in this behalf, shall be competent, thereafter to proceed with the trial of the suit or proceeding, as if the said suit or proceeding had been first filed or initiated in that court.

Criminal Cases.

4. Any enquiry, trial or other proceeding pending in a criminal court in the Civil and Military Station immediately prior to the date of retrocession shall on that date be deemed to be pending in a criminal court in Mysore, and such criminal court of competent jurisdiction in Mysore, as may be notified by the Government in the official Gazette in this behalf shall be competent thereafter to proceed with the enquiry, trial or proceeding as if the offence had been originally taken cognizance of by that court, provided that nothing in this section shall affect the provisions of section 350 of the Code of Criminal Procedure 1898, as in force in the Retroceded area after the date of retrocession.

Proceedings before authorities.

5. Any proceeding under a law in force in the Civil and Military Station prior to the date of retrocession initiated before an authority in the Civil and Military Station which is not finally disposed of or decided before that date, shall on that date be deemed to be a proceeding initiated before an authority in Mysore vested with or ordinarily exercising the functions of such authority and the proceeding may be continued thereafter before the authority in Mysore, as if first initiated before him.

Pending appeals, etc.

6. Any appeal, application or other proceeding, civil or criminal, pending immediately prior to the date of retrocession in the Resident's Court or any other appellate or revisional court in the Civil and Military Station shall on that date be deemed to be pending before the High Court, or, as the case may be, before an appellate or revisional court in Mysore and the High Court or such other appellate or revisional court of competent jurisdiction in Mysore as may be notified by the Governmet in the official Gazette in this behalf shall be competent to proceed with the appeal, application or other proceeding thereafter.

Right of appeal, etc.

7. In respect of a judgment, decree or order passed or made by a civil or criminal court or authority in the

Civil and Military Station prior to the date of retrocession, an appeal, reference, application for revision, review or execution or application of any other kind whatsoever shall lie in the following cases to that court or authority in Mysore which would be competent to entertain it if the judgment, decree or order had been passed or made by a court in Mysore:—

(*a*) where such appeal, reference, application for revision, review or execution or application of any other kind whatsoever could have been preferred before a court or authority in the Civil and Military Station immediately prior to the date of retrocession and has not been so preferred; and

(*b*) where such appeal, reference, application for revision, review or execution or application of any other kind whatsoever is preferred before the court or authority in Mysore in the circumstances and within the time within which under the law in force in the Civil and Military Station immediately prior to the date of retrocession, it could have been preferred.

Pending Privy Council appeals.

8. Any decision of His Majesty in Council given in an appeal now pending before His Majesty in Council shall be effective in Mysore.

Law applicable.

9. In respect of any matter before a court or authority in Mysore, under section 3, section 4, section 5, section 6 or section 7, as the case may be, a question of law shall be decided, as far as may be, by reference to the law which would have been applicable if the question of law had been decided by a competent court or authority in the Civil and Military Station prior to the date of retrocession.

Decree or Order.

10. Any decree or order made or passed by a court in the Civil and Military Station prior to the date of retrocession and any order passed prior to such date by any other lawfully empowered authority in the Civil and Military Station shall be enforceable in Mysore after that date, if it pertains to the Retroceded area and if still subsisting, as if it had been made or passed by a competent court or authority, as the case may be, in Mysore.

Penalty, etc.

11. Any penalty, forfeiture or punishment imposed by any court or other lawfully empowered authority in

the Civil and Military Station prior to the date of retrocession shall, where the proceeding, trial or enquiry resulting in such penalty, forfeiture, or punishment pertains to the Retroceded area, be deemed after the date of retrocession to have been imposed by a competent court or authority, as the case may be, in Mysore and continue to be operative accordingly.

Income-tax matters.

12. Notwithstanding anything to the contrary in the Indian Income-tax Act 1922 or the Excess Profits Tax Act 1940, as in force in the Retroceded area after the date of retrocession :—

(*a*) an Income-tax or an Excess Profits Tax Officer in Mysore notified in this behalf by the Government by notification in the official Gazette shall be entitled to assess the income or profits pertaining to the Retroceded area and chargeable to income-tax or excess profits tax which has not been assessed by any Income-tax or Excess Profits Tax Officer in the Civil and Military Station prior to the date of retrocession and to determine the income-tax or excess profits tax payable thereon ;

(*b*) in respect of any assessment of income-tax or excess profits tax made in the Civil and Military Station prior to the date of retrocession or an order passed by an appellate Assistant Commissioner of Income-tax on appeal from an order of assessment of income in the Civil and Military Station prior to that date, an appeal or an application shall lie in the following cases to the Income-tax or Excess Profits Tax Authority in Mysore, who subject to the modification mentioned in sub-clause (*c*) hereunder, would have been entitled to hear such appeal or application if the order of assessment or order on appeal had been made in the Retroceded area after the date of retrocession,—

(i) where the income or profit pertains to the Retroceded area, and

(ii) where the appeal or application is filed or preferred in the circumstances and within the time within which such appeal or application could have been filed or preferred under the law in force in the Civil and Military Station immediately prior to the date of retrocession ;

(*c*) the Indian Income-tax Act 1922 and the Excess Profits Tax Act 1940, shall apply in the circumstances set out in clause (*b*) as if for references to the Appellate Tribunal in these Acts, reference to such authority as the Government may constitute in this behalf had been substituted;

(*d*) all income, profits or gains accruing, arising or received or deemed to have accrued, arisen or been received in the Civil and Military Station prior to the date of retrocession but which became due for assessment after that date shall, where the income, profits or gains pertain to the Retroceded area, be deemed to have accrued, arisen or been received in Mysore.